



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

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To: Monroe County Planning Commission
From: Bill Harbert, Senior Planning Technician
Through: Townsley Schwab, Acting Director of Planning & Environmental Resources
Date: October 10, 2008
Subject: *Request for a 2-COP Alcohol Beverage Special Use Permit by
FB Shrimp Shack, LLC, 6840 Front Street, Stock Island, Mile Marker 5*

Meeting: October 22, 2008

I REQUEST:

A. Proposal:

The applicant is requesting a 2-COP alcoholic beverage special use permit for beer & wine consumption on premises and beer & wine package sales.

B. Location:

Address: 6840 Front Street, Stock Island, MM 5 (oceanside)

Legal Description: Section 35, Township 67, Range 25, DD 67535-03 part of bay bottom south of & adjacent to Square 55 & 56, Plat of Stock Island (PB1-55) (aka Parcels A & C)

Real Estate (RE) Number: 00123540.000000

C. Applicant:

Property Owner: 6840 Front Street, LLC

Agent: Trepanier & Associates

II RELEVANT PRIOR COUNTY ACTIONS:

The applicant applied for a building permit (application 081-3279) on September 16, 2008 for the after-the-fact installation of a ventilation hood system and conversion of 1,105 ft² of the main building's floor area from a commercial fishing use to a commercial retail use (retail sales and restaurant indoor seating). As of the date of this report, the application has not been approved is currently under review by the Building Department.

1
2 **III BACKGROUND INFORMATION:**
3

- 4 A. Size of Site: Approximately 41,000 ft² (0.94 Acres)
5 Size of Building: 4,131 ft² total floor area, with 1,105 ft² for proposed retail/restaurant
6 B. Land Use District: Maritime Industries (MI)
7 C. Future Land Use Map (FLUM) Designation: Industrial (I)
8 D. Tier Designation: Tier 3
9 E. Existing Use: Commercial Fishing and Non-Permitted Commercial Retail/Restaurant
10 F. Existing Vegetation / Habitat: Developed
11 G. Community Character of Immediate Vicinity: Mixed Use – Commercial Fishing,
12 Public Facilities, Commercial Retail/Restaurant
13 H. Flood Zone: AE-9
14

15 **IV REVIEW OF APPLICATION:**
16

17 Pursuant to MCC §19-218(e), the Planning Commission shall give due consideration to
18 the following factors as they may apply to the particular application prior to rendering
19 its decision to grant or deny the requested permit:
20

- 21 *(1) The effect of such use upon surrounding properties and the immediate neighborhood*
22 *as represented by property owners within 500 feet of the premises:*
23

24 The subject property has historically been used for commercial fishing processing.
25 There is a public utility (Keys Energy Services) to the South and a restaurant
26 (Hogfish) and marina (Safe Harbor) to the North. Staff has found that due to the
27 existing uses on the surrounding properties, the issuance of a 2-COP alcoholic
28 beverage special use permit would not adversely affect the immediate neighborhood.
29

- 30 *(2) The suitability of the premises in regard to its location, site characteristics and*
31 *intended purpose. Lighting on the permitted premises shall be shuttered and shielded*
32 *from surrounding properties, and construction of such permitted properties will be*
33 *soundproofed. In the event music and entertainment is permitted, the premises shall*
34 *be air conditioned:*
35

36 According to the 2008 Monroe County Property Record Card, the building in which
37 the commercial retail/restaurant is located has been in existence since 1963. Staff has
38 found that the physical location, characteristics and intended purpose of the site is
39 suitable for the 2-COP alcoholic beverage special use permit. Staff shall require that
40 lighting on the permitted premises shall be shuttered and shielded from surrounding
41 properties; construction of such permitted properties will be soundproofed; and in the
42 event music and entertainment is permitted, the premises shall be air conditioned.
43

- 44 *(3) Access, traffic generation, road capacities, and parking requirements:*
45

1 Access to and from the site is from Front Street. The applicant has worked with staff
2 to improve access and vehicle maneuverability. According to the site plan in the
3 application, vehicle maneuverability within the site would be improved by
4 reconfiguring the parking area to have a one-way access lane with angled parking
5 spaces. As a result of the reconfiguring, traffic would enter and exit to Front Street
6 via separate drives. The improvements are part of the scope of work of building
7 permit application 081-3279, currently under review by the Building Department.
8

9 The site is located towards the southern end of Front Street. The County's Traffic
10 Consultant, Raj Shanmugam, has determined that no significant impact on the level of
11 service is expected and a traffic study would not be required for a 2-COP alcoholic
12 beverage special use permit at this location.
13

14 There are only six (6) existing parking spaces on the site. The applicant has worked
15 with staff to improve the parking situation. In order to receive Planning and
16 Environmental Resources Department approval of building permit application 081-
17 3279, the applicant agreed to demolish an existing storage building in order to
18 accommodate 31 additional parking spaces. As a result, there would be 37 total
19 parking spaces on the site. In addition, the applicant agreed to establish 16 additional
20 bicycle/motorcycle/scooter parking spaces.
21

22 Therefore, staff has determined if the parking lot improvements proposed within
23 building permit application 081-3279 are approved by the Building Department and
24 carried out, the site would be suitable with regards to access, traffic generation, road
25 capacities and parking requirements.
26

27 *(4) Demands upon utilities, community facilities and public services.*
28

29 Staff has found that the granting of a 2-COP alcoholic beverage special use permit
30 shall not place further demands upon utilities, community facilities and public
31 services.
32

33 *(5) Compliance with the county's restrictions or requirements and any valid regulations.*
34

35 Alcoholic beverage use permits may be granted in the following land use districts:
36 Urban Commercial (UC); Sub Urban Commercial (SC); Suburban Residential (SR)
37 where the site abuts US Highway 1; Destination Resort (DR); Mixed Use (MU);
38 Industrial (I) and Maritime Industries (MI). Notwithstanding the foregoing, alcoholic
39 beverage sales may be permitted at restaurants, hotels, marinas and campgrounds
40 regardless of the land use district in which they are located.
41

42 The subject property is located in a MI district. There is currently no approved
43 commercial retail/restaurant use on the property. However, in the MI District,
44 density-permitting, up to 5,000 ft² of commercial retail and/or restaurant uses may be
45 permitted as-of-right. The applicant has applied for the conversion of 1,105 ft² of the
46 main building's floor area from a commercial fishing use to a commercial retail use.

Therefore, staff has determined if the building improvements proposed within building permit application 081-3279 are approved by the Building Department and carried out, the site would be in compliance with the county's requirements concerning use.

Other Issue(s)

As of the date of this report, there are no approved outdoor seating areas on the property and the property owner has not applied for the establishment of any outdoor seating areas. The applicant has indicated that outdoor seating areas are part of a future phase of the business's development plan and requests that any approval allows for the serving and consumption of beer and wine in any future outdoor seating areas.

V RECOMMENDATION:

Staff recommends APPROVAL to the Planning Commission for a 2-COP alcoholic beverage special use permit with the following conditions:

- A. Prior to the issuance of a resolution by the Planning Commission, the property owner shall obtain building permit approval for a commercial retail and/or restaurant seating area.
- B. Prior to the issuance of a resolution by the Planning Commission, the property owner shall demolish the existing storage building on the property and mark thirty-seven (37) off-street parking spaces and sixteen (16) bicycle/motorcycle/scooter spaces as indicated on the site plan submitted for the alcoholic beverage special use permit file.
- C. Alcoholic beverage use permits issued by virtue of the Monroe County Code shall be deemed to be a privilege running with the land. The sale of the real property which has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the applicant. Such privilege may not be separated from the fee simple interest in the realty.
- D. Alcoholic beverages shall only be served and consumed in outdoor seating areas approved by the Planning & Environmental Resources Department.

1 **Attachment: Monroe County Code Section 19-218. Alcoholic Beverages**

2
3 (a) *Purpose and Intent:* This section is designed and intended to provide for reasonable regulation and control
4 over the sale of alcoholic beverages within the unincorporated areas of Monroe County by establishing an
5 alcoholic beverage use permit procedure and providing criteria to be utilized to assure that all future
6 proliferation of alcoholic beverage use enterprises within the unincorporated areas of the county be compatible
7 with adjoining and surrounding land uses and the county's comprehensive plan, and that alcoholic beverage use
8 permits not be granted where such uses will have an adverse impact upon the health, safety and welfare of the
9 citizens and residents of the county. All persons, firms, partnerships or corporations who have received approval
10 from the zoning board or board of county commissioners under the former provisions of section 19-218 of the
11 Monroe County Code, as same heretofore existed, shall retain all rights and privileges heretofore granted under
12 said section.
13

14 (b) *Permits:* After the effective date of this ordinance, all persons, firms, partnerships or corporations desiring
15 to sell alcoholic beverages upon any premises located within the unincorporated areas of Monroe County and
16 who desire to do so upon a premises not heretofore approved by the zoning board or board of county
17 commissioners under the former section 19-218, shall obtain an alcoholic beverage use permit utilizing the
18 procedure outlined in subsection (d) below.
19

20 (c) *Classifications:* Corresponding to those alcoholic beverage license classifications as heretofore and
21 hereafter adopted by the State of Florida, alcoholic beverage use permits hereafter issued pursuant to this
22 ordinance shall be classified as follows:

- 23 (1) 1APS: Beer, package only;
24 (2) 1COP: Beer, on-premises and package;
25 (3) 2APS: Beer and wine, package only;
26 (4) 2COP: Beer and wine, on-premises and package;
27 (5) 6COP: Beer, wine and liquor, on-premises and package;
28 (6) 6COP SRX: Restaurant, no package sales;
29 (7) 6COP SR: Restaurant, package sale;
30 (8) 6COP S: Motel, package sales;
31 (9) 6COP SBX: Bowling, no package sales;
32 (10) 6COP SPX: Boat, no package sales;
33 (11) 3BPS: Beer, wine and liquor, package sales only;
34 (12) 3M: Additional license for 6COP, over three (3) bars;
35 (13) 12RT: Racetrack, liquor, no package sales.
36

37 (d) *Procedure:* The following procedure shall be followed on any application for an alcoholic beverage use
38 permit hereafter made:

39 (1) Applications for alcoholic beverage use permits shall be submitted to the director of planning in
40 writing on forms provided by the director. Such applications must be signed by the owner of the real
41 property for which the permit is requested. Lessees of the premises may apply for such permits
42 provided that proper authorization from the owner of the premises is given and the application for
43 permit is cosigned by such owner.

44 (2) Upon receipt of a properly completed and executed application for alcoholic beverage use permit
45 stating the exact classification requested along with the necessary fee, the director of planning shall
46 schedule a public hearing before the planning commission and shall advise the applicant of the date
47 and place of said public hearing.

48 (3) Notice of the application and of the public hearing thereon shall be mailed by the director of
49 planning to all owners of real property within a radius of five hundred (500) feet of the affected
50 premises. In the case of a shopping center, the five hundred (500) feet shall be measured from the
51 perimeter of the entire shopping center itself rather than from the individual unit for which approval is
52 sought. Notice shall also be provided in a newspaper of general circulation in the manner prescribed in
53 section 9.5-45.

54 a. For the purposes of this ordinance, a shopping center shall mean a contiguous group of
55 individual units, in any combination, devoted to commercial retail low-intensity uses,

commercial retail medium-intensity uses, commercial retail high-intensity uses, and office uses, as those phrases are defined in section 9.5-4, with immediate off-street parking facilities, and originally planned and developed as a single project. The shopping center's single project status shall not be affected by the nature of the ownership of any of the individual office or commercial retail units, within the shopping center.

(4) At the hearing before the planning commission, all persons wishing to speak for or against the application shall be heard. Recommendations or other input from the director of planning may also be heard prior to any decision by the planning commission.

(e) *Criteria:* The planning commission shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:

(1) The effect of such use upon surrounding properties and the immediate neighborhood as represented by property owners within five hundred (500) feet of the premises. For the purposes of this section, "premises" shall mean the entire project site of a shopping center.

(2) The suitability of the premises in regard to its location, site characteristics and intended purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding properties, and construction of such permitted properties will be soundproofed. In the event music and entertainment is permitted, the premises shall be air conditioned.

(3) Access, traffic generation, road capacities, and parking requirements.

(4) Demands upon utilities, community facilities and public services.

(5) Compliance with the county's restrictions or requirements and any valid regulations.

(f) *Approval by Planning Commission:* The planning commission may grant approval based on reasonable conditions considering the criteria outlined herein.

(g) *Where Permitted:* Alcoholic beverage use permits may be granted in the following land use districts: urban commercial; suburban commercial; suburban residential where the site abuts U.S. 1; destination resort; mixed use; industrial and maritime industries. Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants, hotels, marinas and campgrounds regardless of the land use district in which they are located. Nothing contained herein shall exempt an applicant from obtaining a major or minor conditional use approval when such is otherwise required by the Monroe County Development Regulations [chapter 9.5].

(h) *Transferability:* Alcoholic beverage use permits issued by virtue of this section shall be deemed to be a privilege running with the land. The sale of the real property which has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the applicant. Such privilege may not be separated from the fee simple interest in the realty.

(i) *Appeals:* All persons aggrieved by the actions of the planning commission in granting or denying requested alcoholic beverage permits may request an appeal hearing before a hearing officer under the hearing officer appellate article (art. XIV, chap. 9.5, Monroe County Code) by filing the notice required by that article within thirty (30) days after the date of the written decision of the planning commission.

(j) *Successive Applications:* Whenever any application for alcoholic beverage approval is denied for failure to meet the substantive requirements of this ordinance, an application for alcoholic beverage approval for all or a portion of the same property shall not be considered for a period of two (2) years unless a super-majority of the planning commission decides that the original decision was based on a material mistake of fact or that there exists changed conditions and new facts, not existing at the time of the original decision, which would justify entertaining a new application before the expiration of the two-year period. However, in the case of a shopping center, as defined in subsection (d)(3)a. of this section, this subsection shall only apply to the commercial retail unit within the shopping center for which approval was sought and not the entire shopping center site itself.